

IN THE SUPREME COURT OF THE STATE OF DELAWARE

|                            |                                |
|----------------------------|--------------------------------|
| ALFRED MAURICE LEWIS, JR., | §                              |
|                            | §                              |
| Defendant Below-           | § No. 441, 2011                |
| Appellant,                 | §                              |
|                            | § Court Below—Superior Court   |
| v.                         | § of the State of Delaware,    |
|                            | § in and for New Castle County |
| STATE OF DELAWARE,         | § Cr. ID 9703011339            |
|                            | §                              |
| Plaintiff Below-           | §                              |
| Appellee.                  | §                              |

Submitted: December 13, 2011

Decided: January 17, 2012

Before **STEELE**, Chief Justice, **JACOBS**, and **RIDGELY**, Justices.

**ORDER**

This 17<sup>th</sup> day of January 2012, after careful consideration of the appellant's opening brief, the State's motion to affirm, and the record below, we find it manifest on the face of the opening brief that the judgment below should be affirmed on the basis of the Superior Court's well-reasoned decision dated August 18, 2011. The Superior Court did not err in concluding that Lewis' postconviction petition was subject to dismissal because Lewis had been discharged as unimproved in April 2000 from the probationary sentence associated with the conviction for which he sought postconviction relief. As such, Lewis is not "in custody or subject to future

custody” as a result of that sentence, and thus has no recourse under Rule 61 to seek postconviction relief.<sup>1</sup>

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/ Henry duPont Ridgely  
Justice

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<sup>1</sup> See Del. Super. Ct. Crim. R. 61(a) (2011).